

PROCEEDINGS

OF THE

GOVERNORS OF THE ALMSHOUSE OF THE CITY OF
NEW YORK, THE SOCIETY OF THE NEW YORK
HOSPITAL, THE MASS. GENERAL HOSPI-
TAL, THE MASS. CHARITABLE EYE
AND EAR INFIRMARY, AND THE
COMMISSIONERS OF EMIGRA-
TION OF THE STATE OF
NEW YORK,

ON THE

Appeal of the Medical Profession

TO

RAISE A NATIONAL TESTIMONIAL

FOR THE BENEFIT OF

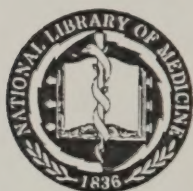
THE DISCOVERER OF ANÆSTHESIA.

NEW YORK:

WM. C. BRYANT & CO., PRINTERS, 41 NASSAU STREET, CORNER OF LIBERTY.

1859.

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Bethesda, Maryland



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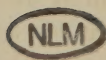
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MASSACHUSETTS GENERAL HOSPITAL.

The undersigned, to whom a proposition that the trustees of this hospital should contribute to a fund to be established for the benefit of Dr. Morton, was referred, report :

That Dr. Morton is known to have been chiefly instrumental in conferring a great good upon his race ;

That his agency in a discovery which has already relieved multitudes from suffering has yielded to him no pecuniary compensation for its acknowledged benefits, but has, on the contrary, been attended by many sacrifices ;

That his only rewards have been the consciousness of a great service rendered, and a title to fame ;

That the government of the country has omitted to provide a proper reward ;

That justice entitles him to remuneration, and that the only mode in which it seems to be probable that the means of doing that justice can be furnished, is through voluntary contributions from the philanthropic, in some such form as is now suggested :

Therefore, your committee think that the object is proper, and that its early attainment is to be desired ; so that the only question is, whether the trustees may properly contribute of the funds of this institution for its promotion.

No ordinary circumstances would justify the trustees, should they apply any portion of the funds under their control to any object other than the direct relief of the sick under their care.

But the relations between Dr. Morton and this hospital in regard to the great discovery which prompts the proposed memorial, are peculiar.

The first important surgical operation to which that discovery was applied, was performed within its walls, at his instance.

At a time when he supposed that his agency in it would be pecuniarily rewarded by those who should derive benefits from

it, he conferred upon this hospital the right to profit by it in all cases without any charge.

We have been and shall continue to be benefited by it to an extent which no reasonable amount of money could compensate for.

Dr. Morton and his friends think that the refusal of the trustees of the Massachusetts General Hospital to subscribe to the contemplated fund, would prevent its foundation. In view of all the circumstances, your committee think that apprehension well founded.

When individuals have made bequests, or rendered remarkable services to the institution, the trustees have deemed it proper to expend such sums as may have been required, to procure appropriate mnemorials of them, to be preserved within the walls of the hospital; and your committee think that the propriety of a subscription toward the fund, which it is now proposed to establish for the benefit of Dr. Morton, would rest safely on the grounds which have been found sufficient in such cases.

They, therefore, recommend that the subjoined vote be passed.

BOSTON, February 22, 1857.

J. THOMAS STEVENSON.

JOHN LOWELL,

Committee.

Voted.—That the Chairman of this Board be requested to subscribe on behalf of the Massachusetts General Hospital, *one thousand dollars* toward the fund which it is proposed to establish for the benefit of Dr. W. T. G. Morton, as a memorial of the great service which that gentleman has rendered to science and to humanity, in connection with the discovery of the uses of ether.

TRUSTEES.

HENRY B. ROGERS,

JOHN P. BIGELOW,

JAMES B. BRADLEE,

WM. S. BULLARD,

WILLIAM J. DALE,

WM. W. GREENOUGH,

THOMAS LAMB,

JOHN LOWELL,

ROBERT M. MASON,

CHARLES H. MILLS,

J. THOMAS STEVENSON,

EDWARD WIGGLESWORTH.

Voted.—That the Secretary of this Board be authorized to subscribe, on behalf of the Massachusetts Charitable Eye and Ear Infirmary, *two hundred dollars* toward the fund to be raised for the benefit of Dr. W. T. G. Morton, as a recognition of the greatest discovery of modern times, and an acknowledgment of the great service which that gentleman has rendered to science and humanity by the discovery of the uses of ether.

TRUSTEES.

J. H. WOLCOTT,
J. W. EDMONDS,
HENRY RICE,
DR. E. REYNOLDS,
G. H. SHAW,
C. H. MILLS,

R. W. HOOPER,
MOSES GRANT,
JAS. LAWRENCE,
DR. S. D. TOWNSEND,
J. A. BLANCHARD,

THEODORE FROTHINGHAM, *Secretary.*

The committees upon the hospitals immediately entered upon the duties assigned them. The following will illustrate the form in which the subject was laid before the leading institutions :

“GEORGE T. TRIMBLE, Esq., *President of the Board of Governors of the New York Hospital.*

“SIR: The members of the medical profession of New York, have made an appeal in behalf of Dr. Wm. T. G. Morton, of Boston, who was the first to discover and demonstrate by experiment the power of sulphuric ether, to render the human economy insensible to pain under surgical operations.

“The object of this appeal is to raise, by voluntary contributions, a fund, as a national testimonial, for his benefit, such as shall be a worthy acknowledgment of the priceless value of a discovery, which has already done, and is constantly doing so much to diminish human suffering.

“Boston, the scene of Dr. Morton’s labors, has taken the initiation in this effort, and has made a noble beginning.

“It is believed that the action of the New York Hospital, in reference to this appeal, will exert an important influence on other kindred institutions in this city and elsewhere, and it is therefore earnestly hoped that the object will be regarded with favor by the Board of Governors. Nowhere in our whole land are the benefits of this discovery more constantly witnessed than in the New York Hospital, and there seems to be special propriety in such an institution acting a conspicuous part in acknowledging our common indebtedness to the discoverer of such a boon to suffering humanity.

"Having been delegated to present this object to your Board, I beg leave, Mr. President, through you, to submit this communication, with the accompanying appeal, to that honorable body for consideration at their next meeting.

"I have the honor to remain, very respectfully,

"Your obedient servant,

"GURDON BUCK, M. D.,

"NEW YORK, *July 3d*, 1858."

The subject being thus fairly laid before the custodians of the institutions of New York, the Society of the New York Hospital, a close corporation, governed by the following gentlemen :

GEORGE T. TRIMBLE,
NAJAH TAYLOR,
GULIAN C. VERPLANCK,
JAMES F. DE PEYSTER,
JOHN A. STEVENS,
JAMES I. JONES,
STACY B. COLLINS,
GEORGE F. HUSSEY,
EDWIN D. MORGAN,
DAVID COLDEN MURRAY,
ROBERT LENOX KENNEDY,
JOHN DAVID WOLFE,
GEORGE F. JONES,

JOSEPH WALKER,
THOMAS HALL FAILE,
THOMAS B. STILLMAN,
JAMES N. COBB,
GEORGE T. OLYPHANT,
JOHN C. GREEN,
DAVID CLARKSON,
ABRAM S. HEWITT,
FREDERICK A. CONKLING,
NATHANIEL P. BAILEY,
OTIS D. SWAN,
HENRY L. PIERSON,
JAMES W. BEEKMAN.

immediately voted that their president, Hon. George T. Trimble, subscribe five hundred dollars to the proposed fund.

The Commissioners of Emigration, composed of the following gentlemen :

GULIAN C. VERPLANCK, <i>Prest.</i> ,	CYRUS CURTISS,
E. CRABTREE, <i>Vice-Prest.</i> ,	MAYOR OF NEW YORK,
B. CASSERLY, <i>Sec.</i>	MAYOR OF BROOKLYN,
E. D. MORGAN,	PRESIDENT OF THE GERMAN
WILSON G. HUNT,	SOCIETY,
ELIJAH F. PURDY,	PRESIDENT OF THE IRISH EMI-
JOHN P. CUMMING,	GRANT SOCIETY.

passed the following resolution :

"*Resolved*, That, in view of the great benefits derived by the

institutions and patients under the charge of the Commissioners of Emigration, by the use of sulphuric ether, the sum of two hundred and fifty dollars be donated to Dr. Wm. T. G. Morton, the discoverer thereof, as a consideration of the feeling of the Board, with an expression of regret that the present state of the funds under their charge would not permit the Commissioners to show a more substantial appreciation of the great importance of the discovery."

The Governors of the Almshouse, composed of the gentlemen named in the annexed note,* referred the subject to the Committee on Bellevue Hospital to report. While considering the subject, the committee received from Stephen Smith, M. D., Secretary, the following resolution, unanimously adopted by the Medical Board of Bellevue Hospital :

Resolved, That the Medical Board of Bellevue Hospital cheerfully express their conviction that to the zeal, perseverance, and skill of Dr. Wm. T. Green Morton, of Boston, in using sulphuric ether to render persons insensible to pain, the world is indebted for the present extended and beneficial use of anæsthetic agents, in the practice of medicine and surgery ; and they are convinced that but for his energy, courage, and success, there is no reason to believe that mankind would yet have received that boon from any of the gentlemen whose names have been prominently connected with this subject.

JOHN W. FRANCIS, M. D.,
President Medical Board.

STEPHEN SMITH, M. D., *Secretary.*

Referred to Committee on Bellevue Hospital.

On the 4th of August, the committee made the following report :

The Committee on Bellevue Hospital, to whom was referred the following resolution :

" *Resolved*, That this Board view with high appreciation the

* Wash. Smith, *Prest.*, Anthony Dugro, *Sec.*, Isaac Townsend, Patrick McElroy, C. Godfrey Gunther, P. G. Moloney, Corns. V. Anderson, Wm. T. Pinkney, Benj. F. Pinkney, Isaac J. Oliver.

initiatory steps taken by the Medical Faculty of the cities of Boston and New York, to acknowledge in a substantial manner the discovery and appliances of sulphuric ether, by Dr. William T. G. Morton, and believing the same to be as expressed and set forth in their testimonials, the greatest benefit of the present age rendered to science and humanity, deem it our duty, in consideration thereof, and of the many uses to which the same has been applied in the institutions under our charge, to vote toward the national subscription fund, as instituted by the Faculty, the sum of \$1,500," have given the matter the consideration it deserves, and beg leave to submit the following :

REPORT:

The discovery of anæsthesia (or as denominated in the resolution, sulphuric ether) stands pre-eminent as one of the greatest boons ever conferred upon humanity, and your committee believe that he, who in the hands of a beneficent Providence revealed it to the world, deserves a substantial recompense ; that, as attested by the most prominent and reliable members of the medical profession in this country, Dr. William T. G. Morton is entitled to this great claim ; that so far from having met with any pecuniary reward, he has lost by the discovery, of what to others has been so great a gain, and is now, after many trials and sacrifices, struggling with poverty.

The United States Government having failed to give him any reward, your committee believe, under the circumstances, that it is the duty of the public to repair this great injustice, and that it is more particularly obligatory on the custodians and governors of public institutions to do this, as they in so great a degree have profited, and will continue to profit, by this discovery.

Your committee disclaim the intention of advising the appropriation of the funds of our department, for simply rewarding a discoverer, however great a benefit he may have conferred on humanity ; but base the propriety of the Board's action in this matter, on the fact, that the institutions under your care are daily using, and will continue to use for all time, to a great extent, what may be justly regarded as private property.

Your committee are truly informed, that Dr. Morton, believing that he would be awarded by his government, placed this discovery at the disposal of the community ; and we, as the representatives of the poor sick thereof, are called upon as conscientious men, to partially remunerate him for the inestimable benefits enjoyed, and daily availing ourselves of, he having failed to be recompensed from the other source.

Your committee know that such action on our part is not without precedent in this Board, and believing that the community will heartily endorse our action in this instance, ask the acceptance of this report, and offer for your adoption the following resolution :

Resolved, That the resolution respecting Dr. William T. G. Morton, as referred to the committee on Bellevue Hospital, and as embodied in their report, be adopted.

C. GODFREY GUNTHER,

WILLIAM T. PINKNEY,

P. G. MOLONEY,

Committee.

Ordered to be printed in the proceedings, and made special order for next meeting.

The resolution of the Medical Board, previously alluded to, did not recommend the appropriation, or certify that the surgeons of the institution under the Governors were using ether, and accordingly the following certificate was forwarded to the Board :

BELLEVUE HOSPITAL,

NEW YORK, *Sept. 13th*, 1858.

To WASHINGTON SMITH,

President Board of Ten Governors ;

We, the undersigned Members of the Medical Board of Bellevue Hospital, respectfully represent to the Board of Ten Governors that sulphuric ether has been in constant use since its appliances were first discovered by Dr. W. T. G. Morton, and further recommend that he be remunerated as recom-

mended by your committee, to whom his claim for compensation was referred.

VALENTINE MOTT,
WILLIAM PARKER, M. D.,
JAMES R. WOOD, M. D.,
JOHN W. FRANCIS, M. D.,
JOHN J. CRANE, M. D.

CHAS. D. SMITH, M. D.,
STEPHEN SMITH, M. D.,
JOHN I. METCALFE, M. D.,
B. W. MCCREARY, M. D.,

On September 14th, the following preamble and resolution, appropriating fifteen hundred dollars, was adopted :

Resolved, That this Board view with high appreciation the initiatory steps taken by the medical faculty of the city of Boston and New York to acknowledge, in a substantial manner, the discovery and appliances of sulphuric ether by Doctor Wm. T. G. Morton, and believing the same to be, as expressed and set forth in their testimonials, the greatest benefit of the present age rendered to science and humanity, deem it our duty, in consideration thereof, and of the many uses to which the same been applied in the institutions under our charge, to unqualifiedly endorse the same.

And be it further Resolved, That the sum of fifteen hundred dollars be, and the same is hereby appropriated as compensation for the use of sulphuric ether in the hospital under our charge, and the same be taken from the unexpended appropriation of Bellevue Hospital.

The President of the Board of Ten Governors immediately made the subscription to the proposed fund.

Subsequently, the Board had the following action :

Resolved, That before the sum of \$1,500 shall be paid to Dr. William T. G. Morton, he, or his assignees, or both if necessary, shall execute to this Board the right by deed, or otherwise, to use his patent for the application of sulphuric ether, in all the public institutions in this city.

Passed, Tuesday, 5th October, 1858.

The following communication was read, and ordered to be printed on the minutes :

"LAW DEPARTMENT, CITY OF NEW YORK,
"NEW YORK, October 11th, 1858.

"To C. G. Gunther, Chairman of Committee on Bellevue Hospital:

"SIR,—I am in receipt of your communication of the 6th instant, reciting a resolution of the Board of Governors of the Almshouse, passed September 14th, 1858, voting to Dr. W. T. G. Morton, \$1,500, 'as compensation for the use of sulphuric ether in the hospitals,' and another resolution of the Board, passed October 5th, 1858, to the effect, that before the above-named sum be paid to Dr. Morton, he, or his assignees, &c., execute to the Board, by deed, or otherwise, the right to use the patent for the application of sulphuric ether, &c.

"My legal opinion is asked in this connection, upon the following statement in your communication: 'Said Morton having the only patent that has been issued by the Government for the use and control of sulphuric ether as an anæsthetic agent, has the Board of Governors or any corporate body the right to use the same without his consent or compensation?'

"To this question I have the honor to reply that, if Dr. Morton had a valid patent, 'for the use and control of sulphuric ether as an anæsthetic agent,' and the Governors of the Almshouse used it without his license, they are liable as infringers, and have a right to pay him any proper sum to prevent being prosecuted. They have also a right, if the use of the ether be necessary, and the patent exist, to make any proper arrangement for a license from the patentee to justify such use. But they have no right to make him any donation or present from any motive or in any form.

"Your obedient servant,

"RICHARD BUSTEED,

"Counsel for the Corporation."

Gov. GUNTHER moved that,

Whereas, This Board has appropriated the sum of \$1,500 to be paid to Dr. W. T. G. Morton, for having used, and for the privilege of using sulphuric ether as an anæsthetic agent; and,

Whereas, Said appropriation is declared legal and valid by Corporation counsel, said Dr. Morton having a patent: therefore,

Resolved, That the President be directed to sign the check for said amount, and provided the agreement is in accordance with the resolution passed October 5th, on said subject, and approved by Counsel to the Corporation.

Passed, Tuesday, October 12th, 1858,

LICENSE REQUIRED OF
 WILLIAM T. G. MORTON,
 TO
 THE GOVERNORS OF THE ALMSHOUSE.

This Indenture, made the eighth day of October, one thousand eight hundred and fifty eight, between WILLIAM T. G. MORTON, Physician, of Boston, State of Massachusetts, of the first part, and THE GOVERNORS OF THE ALMS-HOUSE, of the City, County and State of New York, parties of the second part:

Whereas, The Governors of the Alms-house of the city of New York, did, at the request of a committee appointed by members of the medical profession of said city, refer the question of the propriety of the Governors of the Alms-house acknowledging in a substantial manner the discovery and appliances of SULPHURIC ETHER, by Dr. William T. G. Morton, and for the use of the same in the Institutions under their charge, to the Committee on Bellevue Hospital; and whereas that committee did, on the fourth day of August, one thousand eight hundred and fifty-eight, report in favor of said resolution;

And whereas, The Governors of the Alms-house did, on the fourteenth day of September, one thousand eight hundred and fifty-eight, resolve as follows, to wit: "That this

Board view with high appreciation the initiatory steps taken by the Medical Faculty of the cities of Boston and New York to acknowledge, in a substantial manner, the discovery and appliances of Sulphuric Ether, by Doctor Wm. T. G. Morton, and believing the same to be, as expressed and set forth in their testimonials, the greatest benefit of the present age rendered to science and humanity, deem it our duty, in consideration thereof, and of the many uses to which the same has been applied in the institutions under our charge, to unqualifiedly endorse the same;" and further resolved: "That the sum of fifteen hundred dollars be, and the same is hereby appropriated as compensation for the use of Sulphuric Ether in the hospital under our charge, and the same be taken from the unexpended appropriation of Bellevue Hospital ;

And whereas, The said Governors of the Almshouse did subsequently, to wit, on the fifth day of October, one thousand eight hundred and fifty-eight, further resolve: "That before the sum of fifteen hundred dollars shall be paid to Doctor William T. G. Morton, he or his assigns, or both, if necessary, execute to this Board the right, by deed or otherwise, to use his patent for the application of Sulphuric Ether in all the public institutions in this city ;

And whereas, Letters-Patent were granted to the said William T. G. Morton, party hereto of the first part, on the twelfth day of November, in the year one thousand eight hundred and forty-six, by the United States Government, under the seal of the Patent-Office at Washington, for a new and useful improvement in surgical operations, whereby pain is prevented :

Now this Indenture witnesseth, That the said William T. G. Morton, party hereto of the first part, for and in consideration of the sum of fifteen hundred dollars to him in hand paid, the receipt whereof is hereby acknowledged, by the Governors of the Almshouse, doth hereby permit the said

Governors of the Almshouse, parties hereto of the second part, to use said invention for the application of Sulphuric Ether in all the public institutions in the said city of New York.

In witness whereof, the party hereto of the first part hath hereunto set his hand and seal, the day and year first above written.

WM. T. G. MORTON. [L. s.]

Sealed and delivered in }
the presence of }
JAMES B. WILLIAMS.

Form approved.

RICH. BUSTEED,
Counsel and Attorney for
the Corporation of the
City of New York.

Law Department, City of New York,
OFFICE OF THE COUNSEL TO THE CORPORATION,
No. 237 Broadway, May 7th, 1859.

To the Honorable the Governors of the Almshouse :

I transmit herewith a letter from W. M. Evarts, Esq., to whom and to myself the question of compensating Dr. Morton for the use of his discovery of sulphuric ether as an anesthetic agent, in the institutions under your care, was referred for our opinion as to the liability of the Governors, under the circumstances which have attended its use.

It will be perceived by Mr. Evarts' letter, that he is of opinion that the only defence which has been, or which could be, set up in the action brought by the assignees of Dr. Morton, is of an uncertain character as to its results, and that, in his judgment, it is very inexpedient for your Board to pursue the litigation of the claim made by Pudney & Russell.

I concur entirely in the views so clearly set forth by my learned brother, and recommend that your Honorable Body take immediate steps for the payment of the sum agreed to be given to Dr. Morton, and for the discontinuance of the pending suit.

Your obedient servant,

RICHARD BUSTEED.

A correct copy.

JOSHUA PHILLIPS,
Clerk Board Governors.

No. 2 Hanover street, May 5th, 1859.

DEAR SIR,—I have considered the subject of Dr. Morton's claim against the Governors of the Almshouse, for the sum of \$1,500, as an agreed consideration for the grant by him of the use in the public institutions under their charge, of his invention for the application of sulphuric ether, which subject was referred by the Board of Governors for your opinion.

I see no reason to dissent in any respect from the views ex-

pressed in your several opinions given to the Board of Governors under dates of October 11th, and of October 25th, 1858, respecting the power and duty of the Board of Governors to make compensation for the use of Dr. Morton's patented right in the institutions under their charge, and their incompetency to make gratuities in mere recognition of the merits and benefits of this or any other invention.

As the Governors of the Almshouse have procured from Dr. Morton the conveyance of the right to use his patent, in consideration of the sum of \$1,500, I see no defence against the action brought for this sum by Pudney & Russell, assignees of Dr. Morton, except the invalidity * of the patent, and from that cause the failure of benefit under his conveyance, and accordingly the answer interposed in the action, sets up that defence.

It seems to me, however, that it is not expedient for the Board of Governors to enter upon the litigation of the validity of Dr. Morton's patent. They should have considered whether he had any valuable right to convey, or whether such right was already general and public, before they took a grant of the right upon their promise to pay. As it is not suggested that the Governors, or the city, are threatened with any disturbance in the enjoyment of the benefits which the contract with Dr. Morton purports to secure to them, and the Governors, apparently, are satisfied that Dr. Morton's invention was highly valuable and meritorious, I do not consider them under any obligation to raise or pursue the controversy on the validity of the patent. What would be the result of this controversy, and at what cost it would need to be carried on, is uncertain.

I am

Yours, respectfully,

WM. M. EVARTS.

RICH. BUSTEED, Esq.,

Corp. Counsel.

"A correct copy."

JOSHUA PHILLIPS,

Clerk Board Govs.

* The validity of the patent has since been established by a judgment obtained in the United States Circuit Court, on the 18th day of June, 1859.

To.....

President of.....

Sir,

Having been appointed to present the objects of the association of medical gentlemen, (interested in raising a National Testimonial for the discoverer of *Anaesthesia*), to the custodians of those institutions who use this discovery, I would respectfully solicit from your honorable body a subscription commensurate with its benefits in your institution. I beg leave, Mr. President, through you, to submit this communication, with the accompanying appeal of the Medical Profession, and the proceedings of those institutions which have already responded to it,* to your honorable body for consideration at their next meeting.

I have the honor to be,

Very respectfully your obdt. servt.,

CHARLES PARKER.

* Arrangements have been made to furnish Institutions preferring to make their subscriptions in form of a purchase, as in the case of the Governors of the New York Alms House, with a License, as seen at page 12, from Dr. Morton.